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STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



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**Air Toxics Workgroup (ATW)
Meeting Summary
July 24, 2013**

Members Present:

James Clift, MI Environmental Council
Steve Kohl, Warner Norcross & Judd
Carrie Houtman, Dow Chemical Co.
Mary Ann Dolehanty, AQD
Greg Ryan, DTE Energy
Joy Taylor Morgan, AQD, Facilitator

Bob Sills, AQD
Brad Venman, NTH
Kim Essenmacher, GM
Kory Groetsch, MDCH
Stuart Batterman, UM
John Caudell, Fishbeck Thompson Carr & Huber

Members Absent:

Brad van Guilder, Sierra Club

Guests/Observers Present:

Jim Sygo, DEQ Deputy Director; Andy Such, Michigan Manufacturers Association; Mike Depa, AQD; Dave Fiedler, Regulatory Affairs Officer, DEQ; Caitlin Nagler, DEQ Student Intern, Office of Environmental Assistance; and Mary Maupin, AQD, SIP Unit Supervisor

Summary

The meeting began with the Facilitator asking the Workgroup members (Members) if they had any changes to the June meeting summary. Members did not have any additional changes to what was e-mailed to the Facilitator, so she said they will be finalized and posted on the ATW web site. The Facilitator also reminded the Members of the August 1st deadline they are under, which means only one more meeting, and that the workgroup should focus on process and methodology to agree on and not necessarily on specific rule language so that the group can finish by their deadline. The Facilitator stated that Staff intends to develop a single all-inclusive report to memorialize the Workgroup's discussions and recommendations, including all of the discussion papers and meeting summaries. The Workgroup agreed that this would help guide AQD through the rulemaking process, and serve as a valuable future resource document. AQD will provide the Members with a draft for review and comment, after the August 1st Workgroup meeting.

Dave Fiedler introduced Caitlin Nagler, the DEQ student intern who will be helping develop a Best Practices document for DEQ stakeholder groups. The Facilitator will be meeting with her soon to discuss the ATW process.

The Facilitator asked if there were any changes to the agenda, and there was a suggestion to end with the TAC list discussion, so the first topic discussed was Clean Fuels, Issue A-1(4).

A-1(4) Clean Fuels Issue

The Facilitator reminded the Workgroup that they still had to agree on the language for a recommendation for A-1(4). The Members said they did review the proposed language again, and after discussion, agreed on the following language. They felt it would be appropriate to add a criterion of a setback of at least 100 feet from the building to the property line, along with some flexibility by adding the sentence, "Sources not meeting the stack height or fenceline

criteria can be reviewed on a case by case basis.” A Member stated that regulatory requirements for the criteria pollutants, particularly NO_x and SO_x, are an effective backstop, and that these three fuels that are proposed for the exemption are the relatively clean ones. The agreed upon recommendation is as follows:

It is recommended that engines, turbines, boilers, and process heaters burning solely natural gas, diesel fuel (#2 fuel oil), or biodiesel, of up to 100 MMBTU/hr, may be exempted from R 224 and 225, provided that the effective stack height is at least 1.5 times the building height and the building setback from the property line is at least 100 feet. Sources not meeting the stack height or setback criteria can be reviewed on a case-by-case basis.

A Member noted that the rule language should include additional appropriate details, including that the qualifying stack should be vertical and unobstructed. Another Member suggested that the exemption could have a sunset clause, triggering a reassessment of the exemption after some time period. A Member asked that the Workgroup report emphasize that the Workgroup’s rationale accounted for broad considerations, including the level of public health protection and the impetus to provide streamlining of the regulatory process for the relatively cleaner fuel options.

A Member asked for clarification of whether this exemption would apply to R 224 as well as R 225, and recommended that the exemption apply to both. AQD staff responded that the emissions from these sources would largely be exempted from R 224 anyway because R 702 would apply, so the AQD may be agreeable to the rationale for exempting these sources from R 224 as well as R 225.

A-1(8) Stack Testing

Discussion followed-up on the Workgroup request that stack test results should be posted on the AQD web page. The AQD members said that this was discussed internally, and that the stack test summaries could be posted to the website starting by November 1, 2013. Therefore, this deadline was added to the Workgroup recommendation language that was previously agreed upon:

The AQD has clarified that the need for stack testing requirements will be determined on a case-by-case basis for compliance demonstration, and will not be required when it is not warranted. For example, routine testing of asphalt plants is no longer warranted. Also, the AQD will work together with EPA and the regulated community in further application of the ERT (emissions reporting tool) or other tools, and will post stack test results on the AQD web page in a searchable format by November 1, 2013.

A-1 (9) Rule 228

The Facilitator presented a proposed draft recommendation, based on previous meeting discussions. After deliberations about the language, the following language was agreed upon by the Members:

Rule 228 should be retained with modification:

Rule 228.

The department may determine on a case-by-case basis, that the maximum allowable emission rate determined in R 36.1224(1), R 336.1225(1),

R 336.1225(2), or R336.1225(3) does not provide adequate protection of human health or the environment. In making these evaluations and determinations, the department shall utilize relevant environmental data, land use, and exposure scenarios, and reasonably anticipated environmental impacts and exposures from the proposed new or modified emission unit or units, in performing these evaluations and determinations. In this case, the department shall establish a maximum allowable emission rate considering relevant scientific information, such as exposure from routes of exposure other than direct inhalation, synergistic or additive effects from other toxic air contaminants, and effects on the environment.

A member noted that the function of R 228 as a “backstop” to address certain issues can also provide the needed backstop for the “TAC List” issue by enabling the agency to address non-TACs as necessary.

A-1(5) Pollution Control Projects

The Workgroup discussed the list again, as shared by Carrie Houtman.

What was presented:

A Pollution Control Project as identified in rule (*air toxics exemption citation*) means that a project meeting the following is exempt from Toxics review, provided the installation of equipment or implementation of the project causes no appreciable change in the quality, nature or quantity of emissions:

1. The installation of pollution control equipment as specified in Rule 285.
2. The addition of internal or external air pollution control equipment to an existing stationary source to comply with a new state or federal air quality regulation.
3. Construction of a facility or implementation of a project subject to a MACT standard.
- ~~4. Replacing a currently permitted raw material for an existing stationary source with a raw material.~~
- ~~5. Installing equipment that repurposes a material from waste into a product, raw material, or intermediate.~~
- ~~6-4.~~ Installation or modification of equipment that reduces the likelihood of opening of pressure relief devices, and/or reduces fugitive emissions, and/or decreases the likelihood or frequency of shutdowns of process equipment where such shutdowns generate emissions which are not associated with normal operation.
- ~~7-5.~~ Installation of larger vessels which allows for the consolidation of two or more vessels if the consolidation results in an overall reduction in the number of emission points and potential to emit.

In addition to deleting bullet number five, agreed upon during the last meeting, the Workgroup also agreed on deleting bullet number four.

Members reiterated that it remains challenging to identify some specific pollution control retrofits (beyond the exemptions of Rule 285) for which it makes no sense to do a toxics review. Some Members wanted examples for specific bullets, Examples were given for #2 as a halide device to comply with a MACT, for #5 (old #7) a blow over tank. A general example suggested was the addition of dry lime sorbent. One Member felt that grandfathered sources should not be exempted from a toxics review, if just undertaking a pollution control project.

It was mentioned that Rule 285 does not specify projects, it just says installation of equipment. It was agreed to table the discussion of this issue until there is further development and agreement on the other issues which could provide regulatory relief for some pollution control projects, including the “meaningful change” issue and the emerging recommendations of the Permit Exemptions Workgroup.

A-1(3)

Exempt sources that are identified in a MACT source category.

There was some discussion, but Members were reminded that the AQD Division Chief said that this recommended change in policy would be very problematic and AQD did not support it. Members recalled an earlier discussion about how the culture in Michigan regarding air toxics emissions calls for the DEQ to be able to reassure the public that the permitted source is safe for the public health and the environment. An exemption that would relieve applicants from having to make this demonstration in their permit application, based on a federal control technology requirement only, would place the agency in a very difficult position.

Andy Such suggested that further discussion on this issue is not warranted, given that there is an impasse. The Members and the Facilitator agreed.

A-1(2) Meaningful Change

Bob Sills gave an overview of the June 14, 2013 “Meaningful Change Discussion Paper” (available on the ATW web site). He said this document refers to the “Avery Memo” that has been utilized as a policy and procedure since 1993 for the AQD in determining if process changes may be exempted from permitting. In previous Workgroup discussions to frame the issue, Members requested that staff develop a proposal for their consideration. The draft discussion paper includes a proposed definition of “meaningful increase in the quantity of the emission” and “meaningful change in the quality and nature” that could be added to the Part 2 Rules to provide better certainty and transparency. This could be accompanied by an AQD Policy and Procedure document, which would provide further details and examples of the methodology. The draft discussion paper attempts to address the concerns that had been expressed by some Members regarding the “floating baseline” with the historical application of the Avery memo, and the application of the Hazard Potential (HP) calculation to very dissimilar air toxics. In the ensuing discussion, staff were asked to provide more details and revisions as soon as possible, for further consideration. One Member wanted to make sure that it is clear that there is no additivity accounted for in the procedure, and only the single highest HPs are compared in the calculation. The issue was then tabled until the next meeting.

A-1(6): the TAC list

Andy Such, MMA thanked Bob Sills for giving a presentation to MMA members on 7/10/13. He said they support the approach for having a defined list, and the listing of specific chemicals rather than groups is supported by MMA members. He said that agreement on the methodology

is more important than the final number. He said he also would like to have the SL justifications to be placed on the AQD web page. Mr. Such said going thru the rule making process to make changes to the TAC list is a concern; this process would be too slow. But, the ability to comment on the list is important. After the initial proposed TAC list and rules receive public comment and are finalized, he suggested that a quarterly or twice/year review of the proposed changes to the TAC list and to the SLs would suffice to allow public review.

One Member mentioned this approach was similar to a draft rule that he shared with AQD, which will be circulated to the Members. That draft rule did not include the TAC list in the rule itself; the TAC list would be published on the AQD web site, as recommended by Members. DEQ participants thought that it would be feasible to place the SL justifications on the AQD web site.

One Member expressed concern over staff only having 30 days to review a new chemical. A different Member said the review should not have to be done within 30 days. A Member indicated agreement with the concept of a formal public comment process on the TAC list and the SLs, but concern that non-TACs may not be adequately evaluated in permit review.

It was agreed that this issue needed more discussion at the next meeting.

Action Items to be Completed Prior to the Next ATW Meeting:

- Bob will provide additional information on the Meaningful Change issue for the 8/1/13 meeting.
- The TAC list draft rule language from Steve Kohl will be distributed for review and discussion at the 8/1/13 meeting.
- Members will review the TAC list and Meaningful Change Discussion Papers.

Meeting Summary prepared by: Joy Taylor Morgan, Facilitator, and Bob Sills, August 8, 2013.